

**CITY OF SEATTLE**  
**ORDINANCE \_\_\_\_\_**  
**COUNCIL BILL \_\_\_\_\_**

AN ORDINANCE relating to land use and zoning, amending Sections 23.40.060 and 23.41.012 of the Seattle Municipal Code to provide additional design departures under the Demonstration Program for Living Building Design implemented by Section 23.40.060.

WHEREAS, the City of Seattle has been a leader in encouraging sustainable building since it adopted a Sustainable Building Policy in February 2000; the City has implemented other processes, regulations and incentives to encourage the private market to follow the City's lead;

WHEREAS, the *Living Building Challenge*<sup>TM</sup> establishes goals for building owners, architects, design professionals, engineers and contractors to build in a way that provides for a sustainable future through buildings informed by their ecoregion's characteristics, that generate all of their own energy with renewable resources, that capture and treat all of their water, and operate efficiently with maximum beauty; and

WHEREAS, the *Living Building Challenge*<sup>TM</sup> is attempting to raise the bar and define the most advanced measure of sustainability in the built environment, using a benchmark of what is currently possible and given the best knowledge available today. Projects that achieve this level of performance can claim to be among the 'greenest' anywhere, and will serve as role models to others that follow; and

WHEREAS, creating very sustainable buildings such as those developed using the *Living Building Challenge*<sup>TM</sup> requires a fundamentally different approach to building design, construction, and operations that may necessitate changes to current development codes; and

WHEREAS, the City Council adopted Ordinance 123206 in December 2009 to establish the Living Building Pilot Program as part of the Land Use Code, to promote the goals of the *Living Building Challenge*<sup>TM</sup> and permit the development of up to 12 projects that meet the prerequisites of the *Living Building Challenge*<sup>TM</sup> or up to three projects that meet the Seattle Deep Green standards; and

WHEREAS, allowing additional development standard flexibility recognizes the significant challenges to meeting such high standards, and has been identified as essential to encouraging more participation in the program, furthering the goals of the *Living Building Challenge*<sup>TM</sup>;

WHEREAS, the City Council appreciates the innovation and leadership efforts of institutions like the Bullitt Foundation to test the boundaries of sustainable buildings, the City Council also wants to encourage developers of general-purpose commercial and residential structures to participate in the Pilot Program in order to model building innovation on a broader scale that could be widely replicated in the future;

NOW THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 23.40.060 of the Seattle Municipal Code, which section was adopted by Ordinance 123206, is amended and retitled as follows:

**23.40.060 Living Building and Seattle Deep Green Pilot Program**

\* \* \*

B. Project qualification.

1. Eligible projects. Only projects that are eligible for design review under Section 23.41.004 and located outside of the shoreline jurisdiction may qualify for the Living Building Pilot Program or the Seattle Deep Green Pilot Program.

2. Enrollment period. The enrollment period ~~((is limited to three years from the effective date of this ordinance))~~ for both the Living Building Pilot Program and the Seattle Deep Green Pilot Program expires on the earlier of December 31, 2015 or when a total of twelve projects have ~~((successfully qualified))~~ submitted for a Master Use Permit for the Living Building Pilot Program or a maximum of three projects for the Seattle Deep Green Pilot Program, ~~((whichever comes first)).~~

\* \* \*

E. Compliance with minimum standards.

1. Minimum Standards for both the Living Building Pilot Program and the Seattle

Deep Green Pilot Program. ~~((While the intent of the Living Building Pilot Program is to encourage development of buildings that meet or exceed the goals of the Living Building Challenge, q))~~Qualifying projects under both the Living Building Pilot Program and the Seattle Deep Green Pilot Program that are granted departures shall meet one of the following: ~~((either))~~

a. Living Building Challenge. The intent of the Living Building Pilot Program is to encourage development of buildings that meet or exceed the goals of the Living Building Challenge. A qualifying project shall meet:

1) all of the ~~((prerequisites))~~Imperatives of the Living Building Challenge, version 2.1; or ~~((60 percent of the prerequisites of the Living Building Challenge and all other following alternative standards:))~~

2) at least three of the seven performance areas, or “petals,” of the Living Building Challenge, version 2.1 (Site, Water, Energy, Health, Materials, Equity, and Beauty), including at least one of the following three petals: Energy, Water, or Materials, and all of the following standards:

~~((a))~~a) total building energy usage, ((subtracting)) not including energy generated on site, is 25 percent or less of the average energy usage for a comparable building not in the Living Building Pilot Program, based on the Seattle Energy Code in effect at time of building permit application ~~((Energy Information Administration's 2003 Commercial Buildings Energy Use Survey, Energy Information Administration's 2005 Residential Energy Consumption Survey, or other baseline approved by the Director that would provide a comparable estimate))~~;

(b) b total building water usage, ~~((subtracting))~~ not including harvested rainwater, is 25 percent or less of the average water usage for a comparable building not in the Living Building Pilot Program, based on Seattle Public Utility estimates or other baseline approved by the Director that would provide a comparable estimate; and

((e))c at least 50 percent of stormwater is captured and used on site.

b. Minimum Standards for Seattle Deep Green Pilot Program. A  
maximum of three projects may qualify under the Seattle Deep Green Pilot Program. Qualifying  
Seattle Deep Green Pilot Program projects that are granted departures shall meet a minimum of  
60 percent of the Imperatives of the Living Building Challenge, version 2.1, and all of the  
following alternative standards:

1) total building energy usage, not including energy generated on site, is 25 percent or less of the average energy usage for a comparable building not in the Living Building or Seattle Deep Green Pilot Program, based on the Seattle Energy Code in effect at time of building permit application ((Information Administration's 2003 Commercial Buildings Energy Use Survey, Energy Information Administration's 2005 Residential Energy Consumption Survey, or other baseline approved by the Director that would provide a comparable estimate));

2) total building water usage, not including harvested rainwater, is 25 percent or less of the average water usage for a comparable building not in the Living Building or Seattle Deep Green Pilot Program, based on Seattle Public Utility estimates or other baseline approved by the Director that would provide a comparable estimate; and

3) at least 50 percent of stormwater is captured and used on site.

2. No later than two years after issuance of a final Certificate of Occupancy for the project, or such later date as may be allowed by the Director for good cause, the owner shall submit to the Director a report demonstrating how the project complies with the standards contained in subsections 23.40.060.E.1.a or E.1.b.~~((has met the Living Building Challenge prerequisites and the standards described in subsection 23.40.006.E.1.))~~

3. If the Director determines that the report submitted pursuant to subsection 23.40.060.E.2 provides satisfactory evidence that the project has complied with the standards contained in subsection 23.40.060.E.1.a or E.1.b, the Director shall, in consultation with the International Living Future Institute (ILFI) and subject to procedures and requirements established by Director's Rule, send the owner a ~~((certificate))~~ letter of approval stating that the project has complied with the performance standards of the Living Building Pilot Program or Seattle Deep Green Pilot Program. If the Director determines that the project does not comply with the standards in subsection 23.40.060.E.1, the Director shall notify the owner of the aspects in which the project does not comply. Nothing in the letter of approval or participation in the Living Building Pilot Program or the Seattle Deep Green Pilot Program shall constitute or imply certification of the project by ILFI as a Living Building under the Living Building Challenge.

Components of the project that are included in order to comply with the minimum standards of ~~((this p))~~ either the Living Building Pilot Program or the Seattle Deep Green Pilot Program shall remain for the life of the project.

4. Within 90 days after the Director notifies the owner of the ways in which the project does not comply, or such longer period as the Director may allow for good cause, the

owner may submit a supplemental report demonstrating that it has made alterations or improvements such that the project now meets the standards in subsection 23.40.060.E.1 a or E.1.b.

5. If the owner fails to submit a supplemental report within the time allowed pursuant to Section 23.40.060.E.4, the Director shall determine that the project has failed to demonstrate full compliance with the standards contained in Section 23.40.060.E.1 a or E.1.b. and the owner shall be subject to the penalty in Section 23.90.018.B.6.

Section 2. Section 23.41.012 of the Seattle Municipal Code, which section was last amended by Ordinance 123809, is amended as follows:

**23.41.012 Development standard departures**

\* \* \*

D. Departures for the Living Building Pilot Program or the Seattle Deep Green Pilot Program.

1. Criteria for Departures. Departures from Land Use Code requirements for projects participating in the Living Building Pilot Program or the Seattle Deep Green Pilot Program pursuant to Section 23.40.060 may be allowed if an applicant demonstrates that the departure would result in a development that better meets the intent of adopted design guidelines or that the departure would result in a development that better meets the goals of ~~((the Living Building Challenge))~~ one of the Pilot Programs and would not conflict with adopted design guidelines. In making this recommendation, the Board shall consider the extent to which the anticipated environmental performance of the building would be substantially compromised without the departures.

2. Scope of Departures. In addition to the departures allowed under ~~((Section))~~  
subsection 23.41.012.B, departures for projects participating in the Living Building Pilot  
Program or the Seattle Deep Green Pilot Program established under Section 23.40.060 may also  
be granted for the following:

a. Permitted, prohibited or conditional use provisions, but only for  
accessory uses that would directly address ~~((a prerequisite))~~ an Imperative of the Living Building  
Challenge, version 2.1, including but not limited to uses that could re-use existing waste streams  
or reduce the transportation impacts of people or goods.

b. Residential density limits;

c. Downtown view corridor requirements;

d. Floor Area Ratio~~((s))~~ limits, as follows:

1) Up to 15 percent above the otherwise applicable limit;

2) In addition, up to all gross floor area for street level general  
sales and services, eating and drinking establishments, or entertainment uses, when located in:

a) An IC zone with a height limit of 45 feet or less; and

b) An urban village or urban center;

e. Maximum size of use;

f. Structure height, subject to the following:

1) Structure height up to 10 feet;

2) Structure height up to 20 feet for development on sites in IC  
zones with height limits of 45 feet or less, when the sites are located in an Urban Village or

Urban Center, and the gross floor area of each floor above 45 feet is limited to 66 percent of the lot area on which the structure is located;((except only)) and

3)((#))Rooftop features may be allowed to extend ((more than 10 feet above the otherwise applicable limit))above the structure height approved pursuant to this subsection 23.41.012.D.2.f, if they are consistent with the applicable standards established for rooftop features within the zone;

g. Quantity of parking required, minimum and maximum parking limits, and minimum and maximum number of drive-in lanes;

h. Standards for storage of solid-waste containers;

i. The quantity of open space required for major office projects in Downtown zones in subsection 23.49.016.B;

j. Standards for the location of access to parking in Downtown zones; and

k. Provisions of Chapter 23.53, Requirements for Streets, Alleys and Easements.

\* \* \*

Section 3. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 2012, and signed by me in open session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 2012.



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President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

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Michael McGinn, Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2012.

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Monica Martinez Simmons, City Clerk

(Seal)